

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and

THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 3898 of 2005

Between:

M/s Kedia Vanaspati Limited, A Public Limited Company,
having its Registered Office at Mahboob Mansion, Malakpet, Hyderabad - 500 036,
rep. by its Managing Director, Mr. Mahesh Kedia, S/o Sri Guljarilal Kedia, aged 45
years.

..... PETITIONER

AND

- 1 The Deputy Commissioner (CT), Charminar Division, Hyderabad.
- 2 The Commercial Tax Officer, Ladbazar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, direction or order especially in the nature of writ of mandamus declaring that part of the order of the Sales Tax Appellate Tribunal for the Assessment Year 2000-2001 in T.M.P. No. 143 of 2004 in T.A.No. 340 of 2004 imposing a condition of payment of Rs. 42,00,000/- for grant of interim stay pursuant to the impugned assessment order made by the second Respondent, as being arbitrary and unreasonable and set aside the said condition and pass such other order or orders

Counsel for the Petitioner: MR.S.RAVI

Counsel for the Respondent No.: GP FOR COMMERCIAL TAX

The Court made the following :

ORAL ORDER: (Per Sri MHSA.J)

Heard the learned counsel for the petitioner.

The instant writ petition is filed questioning the order passed by the learned Tribunal granting stay of collection of tax subject to the condition of the assessee depositing a sum of Rs.42,00,000/- pending disposal of the appeal, over and above the amount already deposited by the assessee.

From the order impugned in the writ petition, it would appear that total tax was determined at Rs.2,39,51,728/-, out of which Rs.1,07,38,034/- was debited by adjustment under the deferment scheme and a further sum of Rs.4,00,000/- was paid towards the tax apart from Rs.4,00,000/- towards penalty. The balance outstanding tax is in the region of Rupees One Crore twenty two lakhs and odd. We notice from the order under challenge that the learned Tribunal granted absolute stay of enforcement of penalty orders and with respect to recovery of tax a conditional order has been passed. The amount directed to be deposited by the assessee is in the region of 1/3rd of the demand under dispute towards tax. We are of the view that the learned Tribunal has in exercise of its discretion imposed the above stated condition. The same is neither illegal nor contrary to any law and is not a one, which warrants interference by a writ Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

Accordingly, we are not inclined to entertain the writ petition. The same is dismissed at the admission stage. No costs.

07....03....2005

msv.

To

- 1 The Deputy Commissioner (CT), Charminar Division, Hyderabad.
- 2 The Commercial Tax Officer, Ladbazar, Hyderabad.

3 2 CCs to the Government Pleader for Commercial Taxes, High Court
of A.P. Hyderabad (OUT)

4 2 CD copies.